

MONTANA LEGISLATIVE HISTORY

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Chapter 152 19 89

Bill H _____ S 124

Original bill & history X c

H. Committee on HUMAN SERV. & AGING

Hearing Date(s) 3/3 X c

& EXEC ACTION

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on PUBLIC HEALTH, WELFARE &

Hearing Date(s) 2/8 X c

& EXEC ACTION

_____ c

_____ c

_____ c

SAFETY

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

SENATE FINAL STATUS

1/21 FISCAL NOTE PRINTED
 2/15 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/17 2ND READING PASSED 42 0
 2/20 3RD READING PASSED 47 3

TRANSMITTED TO HOUSE
 2/21 REFERRED TO LOCAL GOVERNMENT
 3/07 HEARING
 3/10 COMMITTEE REPORT--BILL CONCURRED
 3/11 2ND READING CONCUR MOTION FAILED 38 53

SB 120 INTRODUCED BY HARDING
 ALLOW RELEASE TO THE DEPARTMENT OF REVENUE
 INFORMATION ON OUT-OF-WEDLOCK BIRTHS
 BY REQUEST OF DEPARTMENT OF HEALTH &
 ENVIRONMENTAL SCIENCES

1/13 INTRODUCED
 1/13 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
 1/18 HEARING
 1/19 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/21 2ND READING PASSED 34 9
 1/24 2ND READING PASSED AS AMENDED 48 0
 1/26 3RD READING PASSED 45 1

TRANSMITTED TO HOUSE
 2/21 REFERRED TO JUDICIARY
 3/03 HEARING
 3/03 COMMITTEE REPORT--BILL CONCURRED
 3/04 2ND READING CONCURRED 81 1
 3/06 3RD READING CONCURRED 94 0

RETURNED TO SENATE
 3/10 SIGNED BY PRESIDENT
 3/11 SIGNED BY SPEAKER
 3/11 TRANSMITTED TO GOVERNOR
 3/16 SIGNED BY GOVERNOR
 CHAPTER NUMBER 118 EFFECTIVE DATE: 10/01/89

SB 121 INTRODUCED BY JERGSON, ET AL.
 ABOLISH MERIT COUNCIL AND ALL REFERENCES TO MERIT
 SYSTEM
 BY REQUEST OF LEGISLATIVE AUDIT COMMITTEE

1/13 INTRODUCED
 1/13 REFERRED TO STATE ADMINISTRATION
 1/18 HEARING
 1/19 COMMITTEE REPORT--BILL PASSED
 1/21 2ND READING PASSED 39 4
 1/24 3RD READING PASSED 47 0

TRANSMITTED TO HOUSE
 2/21 REFERRED TO STATE ADMINISTRATION
 2/28 HEARING
 3/08 COMMITTEE REPORT--BILL CONCURRED
 3/11 2ND READING CONCURRED 90 0
 3/13 3RD READING CONCURRED 92 5

RETURNED TO SENATE
 3/16 SIGNED BY PRESIDENT

SENATE FINAL STATUS

3/16 SIGNED BY SPEAKER
 3/17 TRANSMITTED TO GOVERNOR
 3/22 SIGNED BY GOVERNOR
 CHAPTER NUMBER 239 EFFECTIVE DATE: 10/01/89

SB 122 INTRODUCED BY NATHE, ET AL.
 REVISE CRIMINAL STATUTE LIMITATIONS FOR PROSECUTION
 OF CHILD SEXUAL ABUSE CRIMES

1/13 INTRODUCED
 1/13 REFERRED TO JUDICIARY
 1/19 HEARING
 1/21 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/26 2ND READING PASSED 48 0
 1/28 3RD READING PASSED 43 1

TRANSMITTED TO HOUSE
 2/21 REFERRED TO JUDICIARY
 3/06 HEARING
 3/06 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 3/08 2ND READING CONCURRED 91 0
 3/09 3RD READING CONCURRED 92 2

RETURNED TO SENATE WITH AMENDMENTS
 3/11 2ND READING AMENDMENTS CONCURRED 45 0
 3/14 3RD READING AMENDMENTS CONCURRED 48 1

3/20 SIGNED BY PRESIDENT
 3/20 SIGNED BY SPEAKER
 3/21 TRANSMITTED TO GOVERNOR
 3/24 SIGNED BY GOVERNOR
 CHAPTER NUMBER 294 EFFECTIVE DATE: 3/24/89

SB 123 INTRODUCED BY BECK, ET AL.
 PROVIDE FOR CANCELLATION AND REISSUANCE OF ERRONEOUS
 MOTOR VEHICLE CERTIFICATES OF OWNERSHIP

1/13 INTRODUCED
 1/13 REFERRED TO HIGHWAYS & TRANSPORTATION
 1/31 HEARING
 2/03 COMMITTEE REPORT--BILL PASSED AS AMENDED
 2/06 2ND READING PASSED 49 0
 2/08 3RD READING PASSED 49 0

TRANSMITTED TO HOUSE
 2/21 REFERRED TO HIGHWAYS & TRANSPORTATION
 2/28 HEARING
 3/01 COMMITTEE REPORT--BILL CONCURRED
 3/04 2ND READING CONCURRED 85 1
 3/06 3RD READING CONCURRED 93 0

RETURNED TO SENATE
 3/10 SIGNED BY SPEAKER
 3/10 SIGNED BY PRESIDENT
 3/11 TRANSMITTED TO GOVERNOR
 3/15 SIGNED BY GOVERNOR
 CHAPTER NUMBER 104 EFFECTIVE DATE: 10/01/89

SB 124 INTRODUCED BY HAGER, ET AL.
 PROHIBIT LONG-TERM CARE FACILITIES FROM REFUSING TO

SENATE FINAL STATUS

ADMIT PERSONS WITH AIDS

1/14 INTRODUCED
1/14 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
2/08 HEARING
2/14 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/16 2ND READING PASSED 48 0
2/18 3RD READING PASSED 49 0

TRANSMITTED TO HOUSE
2/21 REFERRED TO HUMAN SERVICES & AGING
3/03 HEARING
3/04 COMMITTEE REPORT--BILL CONCURRED 70 20
3/06 2ND READING CONCURRED 64 27
3/07 3RD READING CONCURRED

RETURNED TO SENATE
3/13 SIGNED BY PRESIDENT
3/14 SIGNED BY SPEAKER
3/15 TRANSMITTED TO GOVERNOR
3/18 SIGNED BY GOVERNOR
CHAPTER NUMBER 152 EFFECTIVE DATE: 10/01/89

SB 125 INTRODUCED BY NATHE PERMIT TEACHERS' RETIREMENT SYSTEM MEMBERS TO PURCHASE ADDITIONAL SERVICE

1/14 INTRODUCED
1/14 REFERRED TO STATE ADMINISTRATION
1/16 FISCAL NOTE REQUESTED
1/18 HEARING
1/18 FISCAL NOTE RECEIVED
1/20 FISCAL NOTE PRINTED
1/23 COMMITTEE REPORT--BILL PASSED 50 0
1/25 2ND READING PASSED 48 0
1/27 3RD READING PASSED

TRANSMITTED TO HOUSE
2/21 REFERRED TO STATE ADMINISTRATION
3/02 HEARING
3/02 COMMITTEE REPORT--BILL CONCURRED 85 0
3/04 2ND READING CONCURRED 93 1
3/06 3RD READING CONCURRED

RETURNED TO SENATE
3/10 SIGNED BY PRESIDENT
3/11 SIGNED BY SPEAKER
3/11 TRANSMITTED TO GOVERNOR
3/16 SIGNED BY GOVERNOR
CHAPTER NUMBER 113 EFFECTIVE DATE: 7/01/89

SB 126 INTRODUCED BY NATHE REQUIRE TEACHERS TO MAINTAIN CURRENT ENDORSEMENTS

1/14 INTRODUCED
1/14 REFERRED TO EDUCATION & CULTURAL RESOURCES
1/18 HEARING
DIED IN COMMITTEE

SB 127 INTRODUCED BY NATHE

SENATE FINAL STATUS

PROHIBIT SIMULTANEOUS APPEALS OF SCHOOL EMPLOYEE'S GRIEVANCES

1/14 INTRODUCED
1/14 REFERRED TO EDUCATION & CULTURAL RESOURCES
1/18 HEARING
1/30 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/01 2ND READING PASSED 49 0
2/03 3RD READING PASSED 44 6

TRANSMITTED TO HOUSE
2/21 REFERRED TO LABOR & EMPLOYMENT RELATIONS
2/28 HEARING
3/02 TABLED IN COMMITTEE

SB 128 INTRODUCED BY MANNING, ET AL. REVISE AND CONTINUE THE GENERAL RELIEF ASSISTANCE JOB SEARCH, TRAINING, AND WORK PROGRAM BY REQUEST OF JOINT SUBCOMMITTEE ON WELFARE

1/14 INTRODUCED
1/14 REFERRED TO LABOR & EMPLOYMENT RELATIONS
1/16 FISCAL NOTE REQUESTED
1/23 FISCAL NOTE RECEIVED
1/23 FISCAL NOTE PRINTED
1/24 HEARING
2/15 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/17 2ND READING PASSED 42 0
2/20 3RD READING PASSED 50 0

TRANSMITTED TO HOUSE
2/21 REFERRED TO LABOR & EMPLOYMENT RELATIONS
3/01 REREFERRED TO HUMAN SERVICES & AGING
3/10 HEARING
3/21 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/27 2ND READING CONCURRED AS AMENDED 91 5
3/28 TAKEN FROM 3RD READING
3/29 2ND READING CONCURRED AS AMENDED 93 2
3/29 3RD READING CONCURRED 93 1

RETURNED TO SENATE WITH AMENDMENTS
4/05 2ND READING AMENDMENTS NOT CONCURRED 49 0
4/06 FREE CONFERENCE COMMITTEE APPOINTED
4/14 FREE CONFERENCE COMMITTEE REPORT NO. 1
4/15 2ND READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 47 0
4/18 3RD READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 49 0

HOUSE
4/07 FREE CONFERENCE COMMITTEE APPOINTED
4/14 FREE CONFERENCE COMMITTEE REPORT NO. 1
4/15 2ND READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 88 7
4/17 3RD READING FREE CONFERENCE COMMITTEE
REPORT NO. 1 ADOPTED 96 3

4/27 SIGNED BY PRESIDENT
4/28 SIGNED BY SPEAKER
5/01 TRANSMITTED TO GOVERNOR

SENATE BILL NO. 124

INTRODUCED BY HAGER, SQUIRES, HALLIGAN

IN THE SENATE

JANUARY 14, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
FEBRUARY 14, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1989	PRINTING REPORT.
FEBRUARY 16, 1989	SECOND READING, DO PASS.
FEBRUARY 17, 1989	ENGROSSING REPORT.
FEBRUARY 18, 1989	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 18, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
FEBRUARY 20, 1989	FIRST READING.
MARCH 4, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 64; NOES, 27.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 8, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 124
 2 INTRODUCED BY Hager Squin Kelly
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A LONG-TERM
 5 CARE FACILITY FROM REFUSING TO ADMIT A PERSON TO THE
 6 FACILITY SOLELY BECAUSE THAT PERSON HAS AIDS OR ANY OTHER
 7 HIV-RELATED CONDITION; AND AMENDING SECTION 50-5-105, MCA."

8
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 50-5-105, MCA, is amended to read:

11 "50-5-105. Discrimination prohibited. (1) All phases
 12 of the operation of a health care facility shall be without
 13 discrimination against anyone on the basis of race, creed,
 14 religion, color, national origin, sex, age, marital status,
 15 physical or mental handicap, or political ideas.

16 (2) (a) A long-term care facility may not refuse to
 17 admit a person to the facility solely because the person has
 18 an HIV-related condition.

19 (b) For the purposes of this subsection (2) the
 20 following definitions apply:

21 (i) "HIV" means the human immunodeficiency virus
 22 identified as the causative agent of acquired
 23 immunodeficiency syndrome (AIDS) and includes all HIV and
 24 HIV-related viruses that damage the cellular branch of the
 25 human immune or neurological system and leave the infected

1 person immunodeficient or neurologically impaired.

2 (ii) "HIV-related condition" means any medical
 3 condition resulting from an HIV infection, including but not
 4 limited to seropositivity for HIV.

5 (2)(3) No A person who operates a facility may not
 6 discriminate among the patients of licensed physicians. The
 7 free and confidential professional relationship between a
 8 licensed physician and patient shall continue and remain
 9 unaffected."

10 NEW SECTION. Section 2. Extension of authority. Any
 11 existing authority to make rules on the subject of the
 12 provisions of [this act] is extended to the provisions of
 13 [this act].

-End-

of the committee if they thought a lesser fee would be in order.

Closing by Sponsor: Senator Vaughn stated that she was in favor of changing the effective date, and she felt that if the late fee was lowered too much, it would not accomplish what is necessary and would cost too much to administer. She recommended favorable consideration of SB 323.

DISPOSITION OF SENATE BILL 323

Discussion: None

Amendments: A motion was made that the amendments be adopted. Motion accepted unanimously.

Recommendation and Vote: A motion was made that SB 323 DO PASS AS AMENDED. Senators in favor 7, opposed 0.

HEARING ON SENATE BILL 124

Presentation and Opening Statement by Sponsor: Senator Tom Rasmussen opened the hearing on this bill. Senator Tom Hager, Senate District 48, advised that SB 124 was introduced at the request of people with whom he served on the board of a nursing home in Billings. It grew out of a case where an aids patient was refused entry into a nursing home, and was finally accepted into a nursing home in Billings where he remained until he died. He stated that he does not wish to see just one or two places in the state which will accept aids patients. Since the disease is part of our culture now, we must learn to deal with it.

List of Testifying Proponents and What Group they Represent:

Ellen Leahy, Missoula Health Department
Tondy Baumgartner, Missoula Community Hospital
"K.B.", Missoula Aids Task Force
Brenda Nordlund, Montana Women's Lobby
Marie Bousquet, Administrator, St. John's Lutheran
Home, Billings, Montana
Robert Johnson, Montana Public Health Association
Jim Ahern, Montana Hospital Association
Rose Hughes, Montana Health Care Association
Barbara Booher, Montana Nurses Association
Mary Beth Frideres, Montana Aids Coalition

List of Testifying Opponents and What Group they Represent:

None

Testimony:

Ellen Leahy informed the committee that it was the Missoula community that turned away the individual to whom Senator Hager referred. She stated she has a fear this sort of thing will repeat itself. Based on her experience in Public Health and work with aids patients, she stated she can attest that there is no reason that this should occur. She stated that the type of interaction should be considered when dealing with diseases. When the aids virus is considered, it is known that it is sexually spread and based on the activity that takes place in a nursing you can see that it poses no risk for the other patients or their families. Health care workers protect themselves from the aids virus by following universal precautions. She believes there are no dangers in admitting an aids patient to a long-term care facility, but there are obvious consequences from excluding such individuals from a facility. She believes Montana would be going in the right direction by passing SB 124. She submitted her written testimony. (Exhibit #1).

Tondy Baumgardner stated she is a medical social worker, and was personally involved in placing the individual in a nursing home in Billings. She tried to place him in a facility in Missoula, but could not. She also met with negative response in other places in western Montana. She stated that they are Medicare and Medicaid facilities and she believes they are discriminating and not accepting certain patients that should be accepted.

"K.B." advised that he supports SB 124. He informed that he is infected with the aids virus which will and does require medical attention. He requests passage of this bill since he does not want to be refused Medicaid and Medicare supported facilities in the future.

Brenda Nordlund stated that the Montana Women's Lobby endorses measures to prevent the human and economic loss relating to aids. She set forth their position in written testimony which was read and submitted to the committee. (Exhibit #2).

Marie Bousquet, representing St. John's Lutheran Home, Billings, stated this was the facility that accepted the patient who was mentioned today. She read and submitted her written testimony to the committee.

(Exhibit #3).

Bob Johnson stated he is President of the Montana Public Health Association. He stated they would like to lend their support to the passage of SB 124. He added there is no public health or medical reason for discrimination of aids patients in any medical facility. All long-term care facilities in the state, by the nature of their license, have to be prepared to handle people with aids.

Jim Ahern, President of the Montana Hospital Association, stated that group would support the bill and urged its passage.

Rose Hughes, Executive Director of the Montana Health Care Association, stated that long-term care facilities, by law, are not to discriminate against a patient solely on the basis of diagnosis, be it aids or some other disease. She wonders where the enforcement is, since they are not complying with current law. She suggested that the committee consider an amendment which she distributed (Exhibit #4), which suggests changing the terminology from "long-term care facility" to "health care facility". She also furnished an information sheet, attached to Exhibit #4.

Barbara Booher, Executive Director for the Montana Nursing Association, stated that the Registered Nurses are very much in support of SB 124 and they wished to thank Senator Hager for presenting it.

Mary Beth Frideres of the Montana Aids Coalition stated that one of the tasks of her organization is to fight discrimination toward the people infected with the aids virus and they stand in favor of passage of SB 124. She feels this will send a very clear message that the way to get over the fear of this infection is with information. She stated that what needs to be done in care facilities is to teach people how to care for people with this infection. She stated there is no concern to other patients within the facility, with proper precautions.

Questions from Committee Members:

Senator Norman asked what the response was when the long-term care licensing facility was informed of the refusal to take the patient in question. Ms. Baumgardner stated the agencies she contacted said they

would look into it.

John Patrick, SRS, stated they are not the licensing agency. He stated his department did contact two or three facilities in Missoula. They indicated their admission policy did not preclude admitting aids patients, but either they did not have a bed available or were unable to admit that particular patient.

Senator Rasmussen asked if aids are treated the same way other infectious diseases are treated. Ellen Leahy responded they are treated according to the way that particular virus spreads, and then that is compared to the type of interaction they expect from someone who may be infected and those who are not. There would not be any exclusion concerns in the health care facility. She said there are certain types of isolation called universal precautions and they are put forth by the Center for Disease Control. Health care workers are to protect themselves from any patient's blood or body fluids.

Senator Hims1 asked if some hospitals might refuse an aids patient because their staff is not trained in this area. Rose Hughes stated that more education than training needs to be done in the facilities in dealing with this disease. There may be some fear on the part of health care workers, but those fears may be unfounded. As far as training, she believes the facilities are able to handle these types of patients, if the universal precautions are in place. It should be understood that some aids patients require certain care that a facility may not be able to offer.

Senator Lynch asked what happens if a fellow patient does not wish to share a room with an aids victim because of fear. Rose Hughes stated that a facility does not base its admission decisions based on unfounded fears of staff or other patients. A facility would evaluate whether or not either patient in that room had some communicable disease, but they would have an obligation to serve the person being admitted. Marie Bousquet, Administrator of St. John's Lutheran Home, added that it was very important that they educate their other residents and staff so that prior to receiving the aids patient they were prepared.

Closing Comments by Sponsor: Senator Hager stated that this was a difficult bill to handle. He believes it is time to move to the point where the emphasis is put on not

the "A" but the "ID " - immune deficiency. A person who suffers from this does not die from it - he dies from something his body cannot fight off because he has this immune deficiency. He recognized that the staff and the residents of the home would naturally be concerned, but maybe the aids patient should be even more concerned since he does not have the ability to fight off infections. He asked that the committee amend and pass SB 124.

DISPOSITION OF SENATE BILL 124

Discussion: None

Amendments and Votes: Senator Lynch moved to amend SB 124 with the amendments suggested by the Montana Health Care Association. Motion passed unanimously.

Recommendation and Vote: Motion made by Senator Lynch that SB 124 DO PASS AS AMENDED. MOTION PASSED UNANIMOUSLY.

HEARING ON SENATE BILL 289

Presentation and Opening Statement by Sponsor: Senator Tom Hager, Senate District #48, advised that SB 289 would allow a county lease of a county nursing home to go beyond five years.

List of Testifying Proponents and What Group They Represent:

Beverly Peterson, President of the Board of Directors,
Lutheran Retirement Home, Inc., Billings

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Beverly Peterson stated they do business as St. John's Lutheran Home in Billings, which is a non-profit, church affiliated corporation made up of twenty-one congregations in Billings and the southcentral area of Montana. She read and presented her written testimony to the committee (Exhibit #1).

Questions from Committee Members:

Senator Himsl stated that there is really no choice - they have to have this in order to upgrade the facility to the standard. Ms. Peterson stated that was correct.

ROLL CALL

PUBLIC HEALTH

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2/8/89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Hager	X		
Sen. Tom Rasmussen	X		
Sen. Lynch	X		
Sen. Himsel	X		
Sen. Norman	X		
Sen. McLane	X		
Sen. Pivnich	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 13, 1989

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety, having had under consideration SB 124 (first reading copy -- white), respectfully report that SB 124 be amended and as so amended do pass:

1. Title, line 4.
Following: second "A"
Strike: "LONG-TERM"
Insert: "HEALTH"

2. Page 1, line 16.
Following: "A"
Strike: "long-term"
Insert: "health"

AND AS AMENDED DO PASS

Signed: Thomas O. Hager
Thomas O. Hager, Chairman

4/11/89
114
56
9:00 am



CITY-COUNTY HEALTH DEPARTMENT

SENATE HEALTH & WELFARE
EXHIBIT NO. 1
DATE 2/8/89
BILL NO. SB 124

February 8, 1989

Senator Tom Hager, Chairman
Public Health Committee
Montana Senate
Capital
Helena, MT 59620

Dear Senator Hager,

I am writing in support of SB 124 as introduced. As a local public health official who deals directly with AIDS patients and related issues and policies, I can attest that there is no public health consideration which would make it necessary to exclude a person from a long-term care facility solely because that person is infected with the AIDS virus (HIV).

Because the AIDS virus is spread by sexual and bloodborne routes, the type of contact that takes place among residents in an extended care facility poses no risk of transmission. Even medical treatments that could involve a patient's blood pose no risk for other patients and minimal risk to health care workers who are expected to practice the universal precautions set forth by the Centers for Disease Control to protect themselves against pathogens that may be present in any patient's blood.

While there is no danger in admitting AIDS virus infected patients to long-term care facilities, the exclusion of such patients creates a significant societal liability. I recently witnessed a situation in Missoula in which a young man was refused admittance to a nursing home for the very reason he needed care - he had AIDS. Consequently, he was sent to a nursing home in Billings to die. This type of discrimination serves only to deprive persons of necessary care and creates an unnecessary problem for which society must find and fund a solution.

I urge the legislature to pass SB 124 or the problem will likely repeat itself in keeping with the growing number of the AIDS epidemic. Thank you for your consideration of this testimony. Please contact if I can provide further information.

Sincerely

Ellen Leahy, R.N., M.N.
Acting Health Officer

MONTANA WOMEN'S LOBBYIST FUND

P.O. Box 1099

Helena, MT 59624

406/449-7917

Testimony in Support of SB 124
Before Senate Public Health Committee
February 8, 1989

SENATE HEALTH & WELFARE
EXHIBIT NO. 7
DATE 2/8/89
BILL NO. #124

Mr. Chairman and members of the committee,

My name is Brenda Nordlund and I appear on behalf of the Montana Women's Lobby in support of SB 124.

Montana Women's Lobby endorses measures to prevent the human and economic loss relating to AIDS. We support the adoption of a strong and comprehensive state-level AIDS policy including:

1. Provision for adequate resources and funding for prevention, education and direct care;
2. Opposition to mandatory testing;
3. Provisions for informed consent, adequate counseling and confidentiality in conjunction with HIV antibody testing; and
4. Protection for infected and high risk individuals from discrimination.

By prohibiting HIV-related condition discrimination in health care facilities, we are taking one step to assure that those who desperately need care, will not be shut out, because of fear, ignorance or a misguided sense of invulnerability.

Like it or not, the people that will be protected by this bill are not strangers, but our sons and daughters, our uncles and aunts, our brothers and sisters. They are the people who need to be close to caring families and support systems as they struggle to survive in the face of a momentarily insurmountable disease. We must voice our intolerance of discriminatory practices against AIDS victims, whether in workplace, our schools or the admissions office of a health care facility.

Montana Women's Lobby applauds Senator Hager's sponsorship of SB 124 and urges a "do pass" recommendation from this committee.

TESTIMONY IN SUPPORT OF SB 124

2-8-89

3
SENATE HEALTH & WELFARE
EXHIBIT NO. 3
DATE 2/8/89
BILL NO. 124

I am testifying in support of Senate Bill 124 which would prohibit long term care facilities from refusing to admit persons with AIDS.

Thirty cases of AIDS have been diagnosed in the State of Montana. During this past year, I have received five requests for the admission of AIDS victims to my facility. Of the five referrals I received, I was only able to admit one of them. The others either went home to be cared by family members or died before a nursing home bed became available. The hospital personnel involved in placing these people have frequently expressed their frustrations with placing these people in long term care facilities. The reason most commonly given to them for not accepting placement has been " my facility is not prepared to care for them ". The one person I admitted came to my facility from Missoula as there were no nursing home beds available to him in that area. Even though this patient had little family support, his mother did live in Missoula and he had to be transferred to Billings where he died alone. This type of transfer should be done only as a last resort not because it is the only avenue open to him.

There are Federal regulations that touch on this subject. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against qualified handicapped persons in programs or activities receiving Federal financial assistance. Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving Federal financial assistance must be kept in mind because figures have shown that the incidence of AIDS in some of the minority groups is greater then that of the population as a whole. Due to this, refusing to care for AIDS victims could be considered discriminatory. Those facilities participating in the Medicaid program have a contract stating "any policy by the Contractor[nursing home] limiting the types of care which the Contractor is able to provide, may not violate Federal or

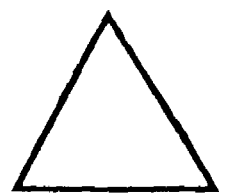
State laws prohibiting discrimination against the handicapped, nor may the Contractor discriminate on the basis of diagnosis". Although these regulations make it difficult to refuse to admit AIDS victims, it does allow facilities not prepared to care for these people to refuse these admissions until they become prepared.

The affect of AIDS is devastating. It is necessary for the staff, residents and family members of the long term care facility to be educated as to the disease, how it is transmitted, the symptoms, and how to care for a person with AIDS. Without this training a facility could not properly care for these individuals. A facility that continues to delay this training could continue delaying the admission of persons with AIDS. Refusal to admit someone should not be because the facility has failed to prepare, but because it truly can not provide the type of care needed. Passage of this bill would cause long term care facilities to become prepared for this type of service allowing those suffering from AIDS to be cared for in a facility close to family and friends.

Therefore I urge you to vote in favor of SB 124.

Marie Bousquet, Administrator
St. John's Lutheran Home - Billings Heights
1415 Yellowstone River Road
Billings, Mt. 59105
[406] 245-9330

MONTANA HEALTH CARE ASSOCIATION



SENATE PUBLIC HEALTH COMMITTEE
February 8, 1989

36 South Last Chance Gulch, Suite A
Helena, Montana 59601
406-443-2876

SENATE BILL NO. 124

Proposed amendment:

1. Amend page 1, line 16, as follows:

Delete: "long-term"

Insert: "health"

SENATE HEALTH & WELFARE
EXHIBIT NO. 4
DATE 2/8/89
BILL NO. SB 124

New section (2) will then read:

"(2) (a) A ~~long-term~~ health care facility may not refuse to admit a person to the facility solely because the person has an HIV-related condition."

50-5-103. Rules and standards — accreditation by joint commission. (1) The department shall promulgate and adopt rules and minimum standards for implementation of parts 1 through 4.

(2) Any facility covered by this chapter shall comply with the state and federal requirements relating to construction, equipment, and fire and life safety.

(3) The department shall extend a reasonable time for compliance with rules for parts 1 through 4 after adoption.

(4) Any hospital that furnishes written evidence, including the recommendation for future compliance statements to the department of its accreditation granted by the joint commission on accreditation of hospitals, is eligible for licensure in the state for the accreditation period and may not be subjected to an inspection by the department, except that the department may inspect any licensed health care facility to answer specific complaints made in writing by any person against the facility when such complaints pertain to licensing requirements. Inspection by the department upon such complaint shall be limited to the specific area or condition of the health care facility to which the complaint pertains.

History: En. Sec. 171, Ch. 197, L. 1967; amd. Sec. 22, Ch. 366, L. 1969; amd. Sec. 3, Ch. 448, L. 1973; amd. Sec. 74, Ch. 349, L. 1974; R.C.M. 1947, 69-5213; amd. Sec. 2, Ch. 347, L. 1979; amd. Sec. 2, Ch. 432, L. 1981.

Cross-References

Adoption and publication of rules — Montana Administrative Procedure Act, Title 2, ch. 4, part 3.

State Fire Marshal, Title 50, ch. 3.

Fire protection equipment, Title 50, ch. 39.

Building construction standards, Title 50, ch. 60.

50-5-104. Certain exemptions for spiritual healing institution. Parts 1 through 3 and rules and standards adopted by the department may not authorize the supervision, regulation, or control of care or treatment of persons in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination. However, a license is required and the minimum standards referred to in 50-5-103(2) apply.

History: En. Sec. 175, Ch. 197, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 69-5217(2); amd. Sec. 3, Ch. 347, L. 1979.

Cross-References

Freedom of religion, Art. II, sec. 5, Mont. Const.

50-5-105. Discrimination prohibited. (1) All phases of the operation of a health care facility shall be without discrimination against anyone on the basis of race, creed, religion, color, national origin, sex, age, marital status, physical or mental handicap, or political ideas.

(2) No person who operates a facility may discriminate among the patients of licensed physicians. The free and confidential professional relationship between a licensed physician and patient shall continue and remain unaffected.

History: En. Sec. 175, Ch. 197, L. 1967; amd. Sec. 107, Ch. 349, L. 1974; R.C.M. 1947, 69-5217(1); amd. Sec. 4, Ch. 347, L. 1979.

Cross-References

Individual dignity, Art. II, sec. 4, Mont. Const.
Doctor-patient privilege, 26-1-805.

Privileges, Rules 501 through 505, Montana Rules of Evidence (see Title 26, ch. 10).

Freedom from discrimination provided, 49-1-102.

Discrimination in public accommodations prohibited, 49-2-304.

Confidentiality of health care information, Title 50, ch. 16, part 5.

50-5-106. (Temporary) Records and reports required of health care facilities — confidentiality. Health care facilities shall keep records and make reports as required by the department. Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report shall be on forms and contain information specified by the department. Information received by the department or board through reports, inspections, or provisions of parts 1 and 2 may not be disclosed in a way which would identify patients. A department employee who discloses information which would identify a patient shall be dismissed from employment and subject to the provisions of 45-7-401 and 50-16-551, unless the disclosure was authorized in writing by the patient, his guardian, or his agent in accordance with Title 50, chapter 16, part 5. Information and statistical reports from health care facilities which are considered necessary by the department for health planning and resource development activities will be made available to the public and the health planning agencies within the state. Applications by health care facilities for certificates of need and any information relevant to review of these applications, pursuant to part 3, shall be accessible to the public.

50-5-106. (Effective July 1, 1989) Records and reports required of health care facilities — confidentiality. Health care facilities shall keep records and make reports as required by the department. Before February 1 of each year, every licensed health care facility shall submit an annual report for the preceding calendar year to the department. The report shall be on forms and contain information specified by the department. Information received by the department or board through reports, inspections, or provisions of parts 1 and 2 may not be disclosed in a way which would identify patients. A department employee who discloses information which would identify a patient shall be dismissed from employment and subject to the provisions of 45-7-401 and 50-16-551, unless the disclosure was authorized in writing by the patient, his guardian, or his agent in accordance with Title 50, chapter 16, part 5. Information and statistical reports from health care facilities which are considered necessary by the department for health planning and resource development activities will be made available to the public and the health planning agencies within the state.

History: En. Sec. 176, Ch. 197, L. 1967; R.C.M. 1947, 69-5218; amd. Sec. 5, Ch. 347, L. 1979; amd. Sec. 13, Ch. 329, L. 1983; amd. Sec. 26, Ch. 632, L. 1987.

Compiler's Comments

1987 Amendment: In fifth sentence inserted references to 50-16-551 and Title 50, chapter 16, part 5.

Effective Date of 1983 Amendment: Section 9, Ch. 477, L. 1987, amended the effective date of

the amendment of this section by Ch. 329, L. 1983, to provide a delayed effective date of July 1, 1989.

Cross-References

Confidentiality of health care information, Title 50, ch. 16, part 5.

50-5-107. Unlawful use of word nursing. It is unlawful for any facility operating in this state to use the word "nursing" in its name, signs, advertising, etc., unless that facility does in fact provide 24-hour nursing care by licensed nurses.

History: En. 69-5203.1 by Sec. 2, Ch. 448, L. 1973; R.C.M. 1947, 69-5203.1.

NAME: KB

DATE: 2/8/89

ADDRESS: 1 542 54th W

SENATE HEALTH & WELFARE

EXHIBIT NO.

DATE 2/8/89

PHONE: 593-10348

BILL NO. SB 124

REPRESENTING WHOM? Missoula AIDS Taskforce

APPEARING ON WHICH PROPOSAL: SB 124

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENT: I was raised in MT and have moved
back to Montana for support for I am
infected w/ AIDS virus. I support SB 124
strongly for down the road hopefully
a long road I will need medical attention
and by passing this I cannot be
refused medicaid & Medicare supported
facilities

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE

BILL NO.

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
James M. Peterson	Dept. of Health & Env. Sc.	SB 323	X	
Bob Becker	MNA	SB 124	X	
David E. Evans	Montana Hearing Aid Society	SB 299		X
Van Van De Riet	HEARING AID INSTITUTE	SB 299		X
STEVEN W.G. Wilson	Helena Hearing Aid Service	SB 299		X
Liane Jacobs	MT Women's Lobby	SB 124	X	
Sandra R. Hale	MT Women's Lobby	SB 124	X	
Jondy Baumgartner	Missoula Community Hospital	SB 124	X	
Ellen Leach	Missoula Health Dept.	SB 124	X	
KB	Missoula AIDS Task Force	SB 124	X	
LeAnn Travis	Helena AARP	SB 299	X	
Robert Johnson	MT Public Health Assoc	SB 124		
Bill Pratt	MT Arts Council ^{MT COMMUNITY} FOR REGULATION		X	
Rose Hughes	MT Health Care Assn	SB 124		Amend
Mary Beth Frederes	Montana AIDS Coalition	SB 124	X	
Brenda Nordlund	MT Women's Lobby	SB 124	X	
Maia Bousquet	St. John's Lutheran Home - Bldgs	SB 124	X	
Beverly Peterson	St. John's Lutheran Home - Bldgs	SB 289	X	
Mary Lou Garrett	Bd of Hearing Aid Dis	SB 299	X	
Susan Talbot	Montana Community Foundation			
Tommy Adams	Montana Senior Citizens Assn	SB 299	X	
Jay & Doe	MT Community Found.	SB 124	X	
"	"	SB 289	X	

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. 124 Time _____

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Motion made to Do PASS
AS AMENDED.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date 2/8/89 Bill No. SB 124 Time

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. Lynch moved to amend
SB 124 with the amendment suggested
by Mont. Health Care Assoc. Motion Passed
Unanimously

Closing by Sponsor: Senator Williams closed on the bill.

HEARING ON SB 124

Presentation and Opening Statement by Sponsor:

Senator Hager stated that bill was an act prohibiting a long term health care facility from refusing to admit a person to the facility solely because that person has aids or any other HIV-related condition.

Testifying Proponents and Who They Represent:

Bob Johnson, Montana Public Health Association
Mary Beth Frideres, Montana Aids Coalition
Sandy Hale, Montana Women's Lobby
Ann McIntyre, Human Rights Division
Wilbur Rehman, Montana Nurses Association

Proponent Testimony:

Bob Johnson stated that every hospital and nursing home in the state in coming years in Montana will be faced with the responsibility for admitting people with Aids. The staffs of these institutions have been trained in universal procedures that will allow them to treat Aids effectively and to protect the staffs of those institutions. There is virtually no health reason why any institution should be allowed to refuse to admit somebody who has Aids based upon health reasons.

Mary Beth Frideres supports this bill. There is no medical or scientific reason why we cannot take care of people with this infection. Technology has advanced and is appropriate and available to take care of people. There are procedures to be put in place to take care of individuals and there is no reason to discriminate on the basis of HIV infection for providing health care.

Sandy Hale stated that they endorse measures to prevent the human and economic loss relating to Aids. They support the adoption of a strong and comprehensive state level Aids policy including provision for the adequate resources and funding for prevention, education and direct care; opposition for mandatory testing; provisions for informed consent, adequate counselling and confidentiality in conjunction to HIV antibody testing. Exhibit 8.

Anne McIntyre stated that she had amendments to supply for the committee. The Human Rights Division has taken the position that these laws prohibit discrimination against someone who has an HIV related condition. This interpretation is similar to the position taken by

the federal courts and agencies in interpreting federal handicap laws. Exhibit 9.

Wilbur Rehman stated that he supports this legislation.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Squires asked Mr. Johnson if there will be many to care for in Montana with Aids and Mr. Johnson stated that there would not.

Rep. Good asked Ms. McIntyre about the amendments, the impact of the bill and the public accommodations for these patients.

Rep. Russell asked Ms. McIntyre about the president in this kind of language in other kinds of statutes in other states and Ms. McIntyre stated that the laws of other states have been interpreted in the courts and by agency interpretation to include HIV related conditions.

Rep. Simon asked Ms. McIntyre regarding the amendment, would this broaden this act so that it would also pertain to employment and Ms. McIntyre stated that it would indeed pertain to employment.

Closing by Sponsor: Rep. Hager closes on the bill.

DISPOSITION OF SB 124

Motion: Rep. Brown made a Motion to BE CONCURRED IN.

Amendments, Discussion, and Votes: Rep. McCormick made a Motion to move the amendments. Rep. Simon spoke against the amendments. A vote was taken on the amendments and all voted against the amendments with the exception of Reps. Russell and McCormick. Motion fails.

Recommendation and Vote: A vote was then taken to BE CONCURRED IN. All voted in favor. Motion carries.

HEARING ON SB 129

Presentation and Opening Statement by Sponsor:

Senator Manning state that this bill was an act to ensure that parents fulfill the duty to support their children by providing for a presumptive obligation of support in certain

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3/3/89

NAME	PRESENT	ABSENT	EXCUSED
Stella Jean Hansen	✓		
Bill Strizich	✓		
Robert Blotkamp	✓		
Jan Brown	✓		
Lloyd McCormick	✓		
Angela Russell	✓		
Carolyn Squires	✓		
Jessica Stickney	✓		
Timothy Whalen	✓		
William Boharski	✓		
Susan Good	✓		
Budd Gould	✓		
Roger Knapp	✓		
Thomas Lee	✓		
Thomas Nelson	✓		
Bruce Simon	✓		

STANDING COMMITTEE REPORT

March 4, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that SENATE BILL 124 (blue reading copy) be concurred in.

Signed: _____
Stella Jean Hansen, Chairman

[REP. SQUIRES WILL CARRY THIS BILL ON THE HOUSE FLOOR]